

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Knight	Team: Team # 2	CCRB Case #: 200603203	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/05/2006 4:00 AM	Location of Incident: 27th Street and 10th Avenue	Precinct: 10	18 Mo. SOL 9/5/2007	EO SOL 9/5/2007	
Date/Time CV Reported Mon, 03/13/2006 4:00 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/13/2006 4:00 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vincent Candela	12682	928011	010 PCT
2. POM Walter Butler	03078	927991	010 PCT
3. LT Theodore Lauterborn	00000	897840	010 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christop Mcgee	21037	931819	010 PCT
2. POM Robert Titza	12631	924554	010 PCT
3. SGT Michael Abbruzzese	00388	921100	010 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Vincent Candela	Abuse: Officer Vincent Candela stopped and questioned § 87(2)(b)	
B.POM Vincent Candela	Force: Officer Vincent Candela used physical force against § 87(2)(b)	
C.POM Walter Butler	Force: Officer Walter Butler used physical force against § 87(2)(b)	
D.POM Vincent Candela	Force: Officer Vincent Candela used physical force against § 87(2)(b)	
E.POM Walter Butler	Force: Officer Walter Butler used physical force against § 87(2)(b)	
F.LT Theodore Lauterborn	Force: Lieutenant Theodore Lauterborn used physical force against § 87(2)(b)	
G. Officers	Force: Officers used physical force against § 87(2)(b)	
H. Officers	Force: Officers used physical force against § 87(2)(b)	

### Synopsis

At approximately 4am on March 5, 2006, § 87(2)(b) had temporarily parked his for-hire Lincoln Town Car near the intersection of 27<sup>th</sup> Street and 10<sup>th</sup> Avenue and exited to find his fare, § 87(2)(b) and her sister, § 87(2)(b). Upon returning to his vehicle, he observed Officer Vincent Candela at the vehicle, preparing to issue him a double-parking summons (**Allegation A**). § 87(2)(b) engaged Officer Candela in an argument, which led to his arrest where Officer Candela and his partner, Officer Walter Butler, roughly man-handled him as they handcuffed him (**Allegation B and C**). § 87(2)(b) arrest enraged § 87(2)(b) who then began to argue with Officers Candela and Butler, which then led to her subsequent arrest. During the course of her arrest, § 87(2)(b) was thrown to the ground and held there with her face ground into the pavement until she was handcuffed by Officers Candela and Butler and Lieutenant Theodore Lauterborn, who had arrived as back-up (**Allegations D-F**). § 87(2)(b) was placed into a patrol car and soon afterwards kicked out the rear window of the vehicle. Several unidentified officers pulled her from the vehicle and held her to the ground in the middle of the window's broken glass (**Allegation G**). § 87(2)(b) exited from one of the nearby bars and observed § 87(2)(b) lying on the ground with blood and cuts on her legs. § 87(2)(b) approached § 87(2)(b) and the officers to see if he could provide assistance § 87(2)(b). One of the officers pushed § 87(2)(b) to the ground, where several unidentified officers proceeded to punch and kick him (**Allegation H**). The ambulance arrived and took § 87(2)(b) to § 87(2)(b) § 87(2)(b) and § 87(2)(b) were arrested and processed at the 10<sup>th</sup> Precinct. § 87(2)(b) lost his job due to his arrest. He filed his complaint with the CCRB on March 13, 2006.

§ 87(2)(b), § 87(2)(g)

### Summary of Complaint

§ 87(2)(b) [enclosure 10a; 11a-c]

§ 87(2)(b) was interviewed on April 4, 2006. At 4am on March 5, 2006, § 87(2)(b) a driver with the Taxi and Limousine Commission for five years, received a job at 27<sup>th</sup> Street and 10<sup>th</sup> Avenue in Manhattan, an area with numerous bars and clubs that close around 4am. Upon arrival at the location, he attempted to make a left turn onto 27<sup>th</sup> Street. However, 27<sup>th</sup> Street was blocked off by a large number of people, police vehicles and officers. § 87(2)(b) continued north on 10<sup>th</sup> Avenue for ½ block and pulled to the left side of the avenue between 27<sup>th</sup> and 28<sup>th</sup> Streets. There were numerous cars and taxis double and triple parked. § 87(2)(b) exited his vehicle (a Lincoln Town Car), leaving the keys in the ignition, the driver side door open and the car running. He walked south in the street for approximately 15-18 feet in the direction of 27<sup>th</sup> Street in order to find his fare at the corner of West 27<sup>th</sup> St. and 10<sup>th</sup> Avenue. He planned on stopping there only for a couple of seconds, just long enough to indicate to his fare where he was parked. It was § 87(2)(b) belief that he can park in “no standing” or “no parking” zones or double park temporarily in order to pick up or drop off fares. He did not immediately see his fare standing on the corner and turned back to his car approximately 10-15 seconds later. When he turned, he observed a male police officer in uniform near the front driver's side of his car. Realizing that he was going to get a summons, § 87(2)(b) ran back to move the vehicle. Before he was able to get into the car to move it, the officer (identified by § 87(2)(b) as Officer Vincent Candela by his nameplate on his uniform) yelled roughly, “You aren’t leaving.” § 87(2)(b) answered, “There’s no need to write me a ticket. I can move my car and leave.” § 87(2)(b) stated that as a hired driver, he routinely is in contact with police officers and is sometimes able to talk his way out of the summons if the officer had not started writing it yet. Officer Candela had not started writing the summons, so § 87(2)(b) wanted to move his car to avoid the summons. § 87(2)(b) stated that he and Officer Candela got into a “heated argument,” although he was unable to provide particulars about the argument. § 87(2)(b) stated that he was mainly upset that Officer Candela was writing him a summons without warning and without giving § 87(2)(b) time to rectify the

violation. § 87(2)(b) verbally expressed his displeasure to Officer Candela. § 87(2)(b) stated that at no time did either he or Officer Candela curse or use profanity. § 87(2)(b) stated that he never physically touched Officer Candela.

After he and Officer Candela exchanged these “heated” words, § 87(2)(b) decided to walk to the rear of the vehicle to get away from Officer Candela while Officer Candela wrote the summons. As he walked to the rear of his vehicle, he continued to complain out loud. Officer Candela told him, “You need to shut up or I’ll arrest you.” § 87(2)(b) told Officer Candela that it was his First Amendment right for free speech and that he could yell and be angry if he wanted. Officer Candela then rushed up to § 87(2)(b) and grabbed one of his arms (possibly the left), simultaneously twisting the arm behind his back and throwing his (possibly right) shoulder into the side of the car. § 87(2)(b) was positioned against the side of his vehicle, facing 10<sup>th</sup> Avenue, with his back to the sidewalk with Officer Candela behind him. Officer Candela placed one handcuff on § 87(2)(b) wrist. § 87(2)(b) then apologized to Officer Candela, stating something to the effect that it didn’t need to come down to him being arrested. At this moment, § 87(2)(b) fare, a female approximately 20 years old, ran up the sidewalk and stopped where § 87(2)(b) was with Officer Candela (identified by the investigation as § 87(2)(b)). According to § 87(2)(b), § 87(2)(b) was drunk and belligerent, screaming at Officer Candela, “That’s my driver. You can’t arrest my driver!” § 87(2)(b) stated that § 87(2)(b) remained on the sidewalk and did not physically approach § 87(2)(b) or Officer Candela. Officer Candela’s partner, identified by § 87(2)(b) as Officer Walter Butler, joined them. Officer Butler finished handcuffing § 87(2)(b) as Officer Candela rushed up to § 87(2)(b) yelling, “You want to be arrested too?” Officer Candela then “knocked” her to the sidewalk and started “beating” her. When further questioned on the details, § 87(2)(b) was unable to explain or describe how this happened, as § 87(2)(b) was still positioned facing the street. Several other uniformed officers arrived on the scene in marked patrol cars and assisted Officer Candela in “beating” § 87(2)(b). However, § 87(2)(b) was unable to describe these officers, beyond that they were uniformed males, or explain exactly what these officers were doing to § 87(2)(b).

Officer Butler placed § 87(2)(b) in a patrol car with an officer that § 87(2)(b) believed was named Officer McGee (identified as Officer Christopher McGee). Officer Butler informed § 87(2)(b) that they would take care of his car before walking away and leaving § 87(2)(b) with Officer McGee. § 87(2)(b) did not see what happened or where Officer Butler went. He was transported to the 10<sup>th</sup> Precinct 20-25 minutes later; he could not remember the officers that transported him. When he arrived, another male in the holding cell informed him that he was a § 87(2)(b) (identified by the investigation as § 87(2)(b)) who had attempted to assist § 87(2)(b) when he observed her lying hurt on the ground. § 87(2)(b) claimed that he did not know that § 87(2)(b) was being arrested, but he saw that she was injured and tried to help. § 87(2)(b) told § 87(2)(b) that when he intervened, the officers attacked him and started kicking him. § 87(2)(b) noticed a large bruise on § 87(2)(b)’s forehead and believed he was taken to the hospital. § 87(2)(b) was also brought into the precinct, crying hysterically. § 87(2)(b) observed that her one of her legs (he could not remember which one) was bloodied. He asked Officer Butler what happened, and Officer Butler answered that when § 87(2)(b) was placed in the patrol car, she went into a “frenzy” and kicked out a window. § 87(2)(b) stated that she was taken to a hospital, but he did not know when, who transported her or which hospital. When he spoke with her at the precinct, § 87(2)(b) told him that she was from Chicago § 87(2)(b). § 87(2)(b) was eventually taken to Central Booking where he was charged § 87(2)(b). § 87(2)(b) stated that he mainly filed the complaint because of Officer Candela’s belligerent manner and believed that Officer Candela could have been more professional. § 87(2)(b) believed that Officer Candela might have mental instabilities, but stated that Officer Butler was the epitome of professionalism and treated him with respect.

### **Results of Investigation**

§ 87(2)(b) [enclosure 13a-c]

§ 87(2)(b) provided the following statement via the telephone on April 5, 2006. § 87(2)(b) is currently § 87(2)(b). She was sent a summary of her statement, which she signed and returned to the CCRB, but did not have notarized. On March 4, 2006, § 87(2)(b) was in New York City visiting her sister, § 87(2)(b) who resides in Manhattan. That evening,

they attended a club called § 87(2)(b) located on West 27<sup>th</sup> Street. § 87(2)(b) consumed alcohol that night and stated that she was intoxicated. At approximately 4am, § 87(2)(b) called a limousine service to provide transportation home. They were told to meet the car in 20 minutes outside. After retrieving their coats and exiting the club, more than 20 minutes had passed. Outside, § 87(2)(b) observed the driver of their hired vehicle, which was parked on West 27<sup>th</sup> Street, facing west. Three uniformed male officers were surrounding the driver and had pushed him back against his vehicle. The driver (identified by the investigation as § 87(2)(b) and the officers (two of whom were identified by the investigation as Officers Vincent Candela and Walter Butler) were involved in a “heated argument.” § 87(2)(b) could not recall the particulars of the argument, but she was able to gather that the officers wanted § 87(2)(b) to move his car. She did not observe either the officers or § 87(2)(b) physically touch each other.

§ 87(2)(b) approached them and touched the left forearm of the officer closest to her intending to tell him that she was upset § 87(2)(b) was being harassed because they were late. The officer (identified by the investigation as Officer Vincent Candela) turned toward § 87(2)(b) and they then became involved in a verbal argument. Although § 87(2)(b) did not remember specifics, she recalled that Officer Candela repeatedly said, “Who do you think you are?” After approximately 5 minutes of arguing, Officer Candela grabbed § 87(2)(b) around the waist and by the arm and roughly placed her on the ground. § 87(2)(b) stated that she did not go down easily and twisted her body to be released from his grip. § 87(2)(b) believed that Officer Candela straddled her back while he attempted to handcuff her, holding the back of her head to the ground and grinding her face into the sidewalk. § 87(2)(b) twisted her arms and body in a futile attempt to prevent the officer from placing the handcuffs on her. § 87(2)(b) screamed at the officers that they had no right to treat her in this way. She believed that § 87(2)(b) attempted to speak with the officers and diffuse the situation. § 87(2)(b) was unable to tell if other officers assisted Officer Candela. After approximately 5-10 minutes, she was brought to her feet and placed in the back of a nearby patrol car. Upset, § 87(2)(b) started kicking her feet and accidentally kicked out the rear passenger window of the patrol car. Immediately, 2-3 officers opened the door, grabbed her legs, pulled her out of the vehicle and placed on the ground in the middle of the shattered glass. The officers held her there, while her legs, knees, arms and face bled from injuries. § 87(2)(b) repeatedly asked the officers what she was being charged with, but they did not respond.

The officers held § 87(2)(b) there for approximately 15 minutes. Once the ambulance arrived, she was placed inside and two officers accompanied her to § 87(2)(b). § 87(2)(b) stated that one of these officers was her arresting officer, Officer Butler. § 87(2)(b) stated that the EMT did not ride in the rear with her and did not provide any medical treatment during transport. § 87(2)(b) admitted that she complained to the officers and one of the officers placed a towel over her face. Once at § 87(2)(b) an attendant cut her off her clothes. Several personal items were taken from her, including her wool coat, keys, cowboy boots, shawl, beaded necklace and bracelet. § 87(2)(b) did not receive much medical treatment beyond a bandage for her knee. She believed that she was at the hospital until § 87(2)(b). Upon release, she was taken to the 10<sup>th</sup> Precinct. There she met § 87(2)(b) and a male § 87(2)(b) who stated that he had tried to help her during her arrest. Due to the circumstances of the incident, § 87(2)(b) was unable to definitively identify the officers involved, save for Officer Butler, whom she believed was one of the initial three officers with § 87(2)(b). Since her arrest, § 87(2)(b) made several attempts to retrieve the items that were taken from her at the hospital. She was told that as her arresting officer, Officer Butler was responsible for her property. § 87(2)(b) has called the 10<sup>th</sup> Precinct several times in the month since her arrest and has been unable to find her property.

#### Civilians not interviewed

Although § 87(2)(b) was contacted on numerous occasions to provide a statement, he failed to contact the CCRB to schedule an interview. § 87(2)(b), § 87(2)(g)

#### Officer Identification

§ 87(2)(b) identified Officers Candela and Butler by name. Both Officers Candela and Butler acknowledged their roles in the incident and indicated that Sergeant Abruzzese and Lieutenant Lauterborn were also on the scene. Sergeant Abruzzese and Lieutenant Lauterborn acknowledged their roles in the incident. Officer Titza, Sergeant Abruzzese’s operator, was identified through § 87(2)(b)’s arrest

paperwork. § 87(2)(b) claimed that § 87(2)(b) told him that Officer McGee kicked him in the back. Although Officer McGee was identified through the communications recordings and the roll call as assigned to the Cabaret unit that responded to the location, he stated that he did respond to the call for assistance but was not involved in any of the arrests.

#### Police Statements

##### ***Officer Vincent Candela*** [enclosure 25a; 26a-c]

*Officer Vincent Candela was interviewed on April 24, 2006 at the CCRB. On March 5, 2006, Officer Candela was assigned to patrol with Officer Walter Butler on an 11:15pm by 7:50am tour. Both officers were in uniform and assigned to a marked patrol car (#2737), of which Officer Candela was the operator. Officer Candela read his memo book entries: 0410, pick up of 10-50 at 27<sup>th</sup> and 10<sup>th</sup>; 423, 3 under.*

On March 5, 2006, Officer Candela was performing routine patrol in the vicinity of 10<sup>th</sup> Avenue and 27<sup>th</sup> Street with Officer Butler. Both he and Officer Butler noticed a black livery cab double-parked on the west side of 10<sup>th</sup> Avenue between 27<sup>th</sup> and 28<sup>th</sup> Streets. He did not recall if there were other double-parked vehicles, but recalled that this particular livery cab was turned off and the hazard lights were not blinking. He did not immediately see the driver in the area, so he parked on the east side of 10<sup>th</sup> Avenue and crossed the street to write a double parking summons. Officer Butler remained in the patrol car. As Officer Candela wrote the summons, the driver of the vehicle (identified by Officer Candela as § 87(2)(b)) approached him from the sidewalk and asked, "Why are you issuing me a summons?" Officer Candela told him that he was double-parked. § 87(2)(b) immediately became argumentative and tried to dispute the summons. Officer Candela told § 87(2)(b) that he was going to be issued the summons regardless, but § 87(2)(b) continued to argue. Officer Butler joined Officer Candela and § 87(2)(b) § 87(2)(b) started to curse and yell that the officers were harassing him. Officer Candela informed § 87(2)(b) that if he did not stop yelling, he would be issued a second summons for disorderly conduct. Officer Candela asked § 87(2)(b) for his driver's license, which he provided although he continued yelling that he knew the system and that they couldn't give him a summons. Officer Candela stated that § 87(2)(b) was wildly swinging his arms around and again came very close to Officer Candela, stepping up into Officer Candela's face to yell. Officer Candela told § 87(2)(b) to back up onto the sidewalk again; however, § 87(2)(b) again did not listen. Officer Candela informed § 87(2)(b) that he would be arrested if he did not comply; Officer Candela could not recall § 87(2)(b) response, but due to his behavior, Officer Candela decided to place him under arrest. He grabbed one of § 87(2)(b) arms to place a handcuff on, but § 87(2)(b) started to move his body and swing his free arm. Officer Candela placed § 87(2)(b) face-first against the rear driver's side of § 87(2)(b) vehicle to gain leverage to handcuff him, but he did not need to use any force despite § 87(2)(b) struggling. Officer Butler assisted Officer Candela in controlling § 87(2)(b) free arm and they were able to place the other handcuff on. Either he or Officer Butler called for an additional car to transport § 87(2)(b) so they could take custody of his vehicle.

Just after § 87(2)(b) was handcuffed as they waited for a unit for transport, two females appeared on the sidewalk from the north (near the front of the vehicle). One of the females (identified by the investigation as § 87(2)(b)) immediately started screaming, "What are you doing?" Officer Candela informed § 87(2)(b) that § 87(2)(b) was being arrested, but she continued to scream, "What are the charges? I want to know the charges! This is my driver!" § 87(2)(b) also used a variety of curses. Officer Candela told her that § 87(2)(b) was being arrested § 87(2)(b). Her companion started to pull § 87(2)(b) away, apologizing for her behavior. Officer Candela instructed § 87(2)(b) to step back onto the sidewalk or she would be arrested also. § 87(2)(b) ignored him and continued to curse at him, "Fuck you. You are just on a power trip." Officer Candela told the other female (whom he believed was her sister) to take § 87(2)(b) home in a taxi. § 87(2)(b)'s sister apologized and told Officer Candela that § 87(2)(b) was drunk.

At that point, § 87(2)(b) swung her arm out (unknown which arm) and hit him below his lower lip in the chin, causing a scratch which did not require medical attention. Officer Candela did not file any paperwork concerning the injury. Officer Candela decided arrest § 87(2)(b). Officer Butler took full control of § 87(2)(b) as Officer Candela grabbed one of § 87(2)(b)'s arms. § 87(2)(b) started swinging her arms so wildly that he was unable to get control of her other arm. Her struggles threw them off balance, causing them to fall to the ground on their knees between the sidewalk and § 87(2)(b) vehicle. Officer Candela

placed one handcuff on, but § 87(2)(b) continued to struggle and he was unable to gain control of her other arm. As they struggled, individuals exiting the local clubs and bars started to intervene, yelling, “What are you doing? You can’t arrest her” as they tried to pull him away from § 87(2)(b). Officer Candela held onto § 87(2)(b) with one hand as he tried to push people away with his other hand. Officer Butler, who was holding onto § 87(2)(b) also attempted to pull these individuals off Officer Candela.

Officer Candela placed a call for back up over the radio and believed that Officer Butler did so also. Officer Candela and Officer Butler continued to hold § 87(2)(b) (handcuffed against the vehicle) and § 87(2)(b) (struggling and not handcuffed on the ground) as they waited for assistance. Officer Candela could not estimate how long it took for back-up officers, but approximately 20-30 officers in total responded to the call for assistance, both uniformed and plainclothes units. He could not recall exactly who responded and did not know who was the first on the scene. Once these officers arrived, they began controlling the crowd and helped him control § 87(2)(b) allowing him to handcuff § 87(2)(b). Once she was handcuffed, Officer Candela brought her to her feet and an unidentified officer escorted her to their patrol car. Officer Candela observed Lieutenant Theodore Lauterborn in the middle of 10<sup>th</sup> Avenue and went over to explain the situation. As they spoke, he heard glass breaking. He turned and observed that § 87(2)(b) had kicked out the rear passenger side window of his patrol car. Immediately, an unknown number of unidentified officers pulled § 87(2)(b) out of the patrol car and placed her on the ground. Officer Candela stated that she was “out-of-control,” screaming, cursing, kicking and spitting at the officers and he could see blood on her leg. An unknown officer at the scene called the Emergency Services Unit and the Emergency Medical Services. Officer Candela stated that ESU truck #1 and the ambulance arrived simultaneously within minutes. Two unidentified ESU officers wrapped restraints around § 87(2)(b)’s legs and the paramedics placed her into the ambulance as she continued to scream, spit and swear at the officers and the paramedics. Officer Candela rode in the back of the ambulance with § 87(2)(b) to § 87(2)(b) as she continued to spit at him, but he stated that he just ignored her.

§ 87(2)(b) was treated for the cuts on her legs although she continued to spit and curse at the hospital employees. Officer Candela stated that he was never given any of her belongings after the hospital personal took them from her. Officer Candela stated that her sister had her purse, but he did not receive her clothing from the hospital staff. Officer Candela stated that he was still at the hospital at 8am when the day tour relieved him. Officer Candela was aware of another arrest from the same location, but he did not observe and/or participate in that arrest. He did not recall seeing any of the arrested individuals at the precinct upon his return and release from the tour.

**Officer Walter Butler** [enclosure 19a-b; 24a-d]

*Officer Walter Butler was interviewed on April 24, 2006 at the CCRB.* On March 5, 2006, Officer Butler was assigned to sector patrol with Officer Vincent Candela on an 11:15pm by 7:50am tour. Officer Butler was in uniform and assigned to a marked patrol car as the recorder. Officer Candela was driving. Officer Butler read his relevant memo book entries verbatim into record: 0400, 10-50 disorderly male at W. 28<sup>th</sup> and 10<sup>th</sup> Ave; 0423, 2 under.

Officer Butler provided identical information as Officer Candela concerning § 87(2)(b) vehicle and behavior when Officer Candela attempted to write the summons. Officer Butler confirmed that he initially remained in the vehicle but exited once he heard § 87(2)(b) and Officer Candela yelling. According to Officer Butler, § 87(2)(b) was very belligerent and specifically recalled § 87(2)(b) saying that the officers had “no authority” to issue him a summons. Although Officer Candela instructed § 87(2)(b) to calm down and back away or he would be arrested, § 87(2)(b) did not comply. § 87(2)(b) came very close to Officer Candela’s face as he yelled, swinging and moving his arms, leading Officer Butler to worry that § 87(2)(b) was going to hit one of them. Officer Candela informed § 87(2)(b) that he was going to be arrested. Officer Butler provided identical information as Officer Candela concerning the actions that they took to handcuff § 87(2)(b). As they handcuffed § 87(2)(b) two females approached the officers from the sidewalk to the north. One of the females (identified as § 87(2)(b)) was immediately belligerent and started cursing and screaming in the officers’ faces that they (the officers) could not arrest her driver § 87(2)(b). Her behavior led Officer Butler to believe that she was intoxicated, which was confirmed by the second female § 87(2)(b)’s sister), who apologized and informed them that § 87(2)(b) was drunk. Both Officers Candela and Butler told § 87(2)(b) not to get involved in the arrest at

least 4 to 5 times; however, she ignored their order and continued to scream and curse. Officer Butler confirmed that § 87(2)(b) flung her arm out and hit Officer Candela in the face. Officer Butler provided an identical account about the events that followed as Officer Candela concerning § 87(2)(b)'s cursing and refusal to be handcuffed and also the attempts of the club patrons to intervene. Officer Butler could not recall if he used any profanity when handling § 87(2)(b) stating that he "could have." He did not hear Officer Candela use profanity. After back up officers arrived and took control of § 87(2)(b) Officer Butler was able to fully assist Officer Candela in handcuffing § 87(2)(b) which took approximately 20 seconds. She was then escorted to their patrol car. Officer Butler provided identical information as Officer Candela concerning the damage that § 87(2)(b) did to their vehicle and stated that when ESU arrived, they placed her into restraints and then into the ambulance.

As she was placed in the ambulance, Officer Butler observed a male arguing vehemently with Sergeant Michael Abruzzese (who arrived for the call for assistance) on the west sidewalk on 10<sup>th</sup> Avenue. Officer Butler went to see if he could assist and heard the male (identified as § 87(2)(b)) screaming that he § 87(2)(b) could help § 87(2)(b). Sergeant Abruzzese told § 87(2)(b) that they could take care of it without his help. An unidentified officer told Officer Butler that § 87(2)(b) then pushed Sergeant Abruzzese, but he did not personally observe this occur. Officer Butler stated that he and several other officers (he believed that Officer Robert Titza assisted as he was the arresting officer) grabbed § 87(2)(b) by his hands, who immediately started struggling, flailing his arms and moving his body around to avoid being handcuffed. Officer Butler stated that he and the other officers were compelled to use force against § 87(2)(b) to handcuff him. Due to § 87(2)(b)'s struggling, they all fell to the ground. Officer Butler stated that he fell to his knees, but he did not know how § 87(2)(b) hit the ground. He denied that he used any other force other than his hands to subdue the male. Officer Butler stated that he was kneeling on the ground while they struggled so he was not able to kick or stomp on him. Officer Butler did not recall if he used any profanity, and did not hear other officers using profanity, when handcuffing § 87(2)(b). Officer Butler did not notice any injuries on § 87(2)(b) after his arrest. The ambulance took § 87(2)(b) to the hospital, although he did not know which one, accompanied by Officer Candela. Officer Butler took their damaged RMP to the precinct. He did not participate in the arrest paperwork processing. He did not know who transported either § 87(2)(b) or the male to precinct. He was not aware of any injuries on either individual.

***Sergeant Michael Abruzzese*** [enclosure 29a-b; 30a-b]

*Sergeant Michael Abruzzese was interviewed at the CCRB on May 30, 2006.* On March 5, 2006, Sergeant Abruzzese worked an 11:05pm to 8:02am tour, assigned as patrol supervisor. Sergeant Abruzzese worked with Officer Robert Titza; both officers were assigned to marked RMP (#2545) and were wearing uniforms.

Sergeant Abruzzese and Officer Titza responded to a 10-85 in the vicinity of 10<sup>th</sup> Avenue and 27<sup>th</sup> Street. They were forced to stop two blocks away from the incident location due to heavy traffic. Upon arrival, Sergeant Abruzzese observed a male on the ground in handcuffs (identified as § 87(2)(b)) and a female in the back of a patrol car (identified as § 87(2)(b)). There was a crowd of approximately 100-150 people gathered. Officers Candela and Butler explained to Sergeant Abruzzese that § 87(2)(b) was a passenger in § 87(2)(b) limousine and had attempted to punch Officer Candela. As the officers spoke with Sergeant Abruzzese, § 87(2)(b) kicked out the rear window of the patrol car. This was only approximately 2-3 minutes after Sergeant Abruzzese arrived. According to Sergeant Abruzzese, § 87(2)(b) was screaming and cursing as she was pulled from the rear of the patrol car and placed on the ground. Sergeant Abruzzese classified her as an Emotionally Disturbed Person and called for ESU, which responded within ten minutes. While the officers were waiting for ESU, a large crowd started to gather and was increasing to approximately two hundred people. Sergeant Abruzzese stated that one male in particular (identified from arrest photo as § 87(2)(b)) refused to back up when the officers commanded him to do so. According to Sergeant Abruzzese, § 87(2)(b) said, "Fuck you." Sergeant Abruzzese decided to place § 87(2)(b) under arrest and ordered Officer Titza to handcuff him. Officer Titza grabbed § 87(2)(b)'s hands, but § 87(2)(b) resisted, pulling his hands away and swinging them around in the air. Officer Titza wrestled § 87(2)(b) to the ground and placed him in handcuffs. The struggle lasted approximately 1-2 minutes. § 87(2)(b) was placed in Sergeant Abruzzese's patrol car and transported to the 10<sup>th</sup> Precinct. § 87(2)(b) was transported to § 87(2)(b).

§ 87(2)(b), while § 87(2)(b) was taken to the 10<sup>th</sup> Precinct. Sergeant Abbruzzese denied that any officer kicked or punched § 87(2)(b) and no officers used profanity during the incident. Sergeant Abbruzzese didn't see any injuries on § 87(2)(b) and he wasn't treated for any injuries. Sergeant Abbruzzese saw § 87(2)(b) a few hours later at the 10<sup>th</sup> Precinct stationhouse and didn't observe any injuries on her. Furthermore, Sergeant Abbruzzese stated that he had no interaction with any of the three individuals at the stationhouse.

**Officer Robert Titza** [enclosure 31a; 34a-b]

Officer Robert Titza was interviewed at the CCRB on July 6, 2006. On March 5, 2006, Officer Titza worked an 11:15pm to 7:50am tour, assigned as the sergeant's operator, Sergeant Michael Abbruzzese; both officers were assigned to a marked patrol car (#2545) and were wearing uniforms. Officer Titza provided a statement nearly identical to Sergeant Abbruzzese's account. Officer Titza stated that Officer Candela placed the call for officer assistance via the radio and that when they arrived, four to five thousand people had surrounded the officers, who were trying to control an EDP female, who was screaming and cursing. The female was placed into a patrol car and then shortly kicked out the passenger window of the vehicle. She was removed and placed on the ground. Officer Titza was performing crowd control when a male, § 87(2)(b) (identified as § 87(2)(b)) attempted to intervene in the female's arrest. The officers told § 87(2)(b) to step back several times, but he failed to comply. One of the officers physically pushed § 87(2)(b) back. § 87(2)(b) stepped into Sergeant Abbruzzese's face and put his hands up aggressively. Officer Titza stated that he considered § 87(2)(b) to be a danger as soon as he put up his hands. Officer Titza grabbed his arms and wrestled him to the ground. § 87(2)(b) flailed his arms, preventing Officer Titza from putting his hands behind his back. Sergeant Abbruzzese assisted Officer Titza in handcuffing § 87(2)(b) which took approximately 1-2 minutes.

Officer Titza did not notice any injuries on § 87(2)(b) or the female. He did not hear them complain of any injuries. Officer Titza did not observe any officers punch or kick § 87(2)(b). Officer Titza transported § 87(2)(b) to the 10<sup>th</sup> Precinct and didn't recall if he had any interaction at that time. Officer Titza did not believe that § 87(2)(b) received medical attention. Officer Titza stated that he did not use any profanity and did not hear any other officer use profanity during the arrest.

**Lieutenant Theodore Lauterborn** [enclosure 35a-b; 36a-c]

Lieutenant Theodore Lauterborn was interviewed on September 13, 2006 at the CCRB. He was working a 10pm to 6:35pm tour assigned to the Cabaret unit, which enforces quality of life around the city's bars and nightclubs. He was dressed in uniform and was working with Officer Colesanti. They were assigned to patrol car #2066. Lieutenant Lauterborn read his memo book entries were read verbatim into record: 0410; 10-85 27/10 Officers Candela/Butler, f/b (female black) EDP prisoner, no injuries, taxi driver under, EDP § 87(2)(b) 0450, 10-98.

Lieutenant Lauterborn stated that he and his partner were one of the first units to respond to the location. When they first arrived, he observed a female (identified by the investigation as § 87(2)(b)) fighting with Officer Candela on the ground on the curb between the street and the sidewalk, while Officer Butler was attempting to maintain control of a taxi driver and keep pedestrians from interfering. Lieutenant Lauterborn assisted Officer Candela in handcuffing § 87(2)(b) who was lying on her stomach on the ground and was kicking, screaming and yelling at the officers. § 87(2)(b) then put her hands under her chest and grasped her shirt so that the officers could not handcuff her. Lieutenant Lauterborn stated that he and Officer Candela were compelled to pry her arms out from under her to get her handcuffed. Lieutenant Lauterborn stated that Officer Candela placed a knee into the mid-point of the small of her back in order to hold her down and control her. Lieutenant Lauterborn and Officer Candela were able to handcuff § 87(2)(b) however, she continued to scream and act irrational, cursing and making unspecified "racial remarks" about the officers' ethnicity. Unidentified officers placed her in a patrol car, but soon she knocked out the rear vehicle window with her feet (he could not recall if it was the driver or passenger side). Lieutenant Lauterborn was approximately 10 feet from the patrol car when § 87(2)(b) kicked out the window. Lieutenant Lauterborn classified § 87(2)(b) as an EDP and requested ESU and EMS. § 87(2)(b) was removed from the vehicle by unknown officers and placed on the ground. Lieutenant Lauterborn confirmed that § 87(2)(b) had some cuts and bruises on her legs due to the shattered window.



When ESU arrived within minutes, § 87(2)(b) was still “hysterical,” so ESU placed her in a restraint bag and then put her into an ambulance when it arrived shortly thereafter. She was transported to § 87(2)(b). Lieutenant Lauterborn stated that the crowd consistently attempted to interfere in § 87(2)(b)'s arrest. Officer Butler and the subsequent responding units were having a difficult time controlling the crowd. He was unsure if there were any other arrests from that location that night. He believed that the taxi driver (identified by the investigation as § 87(2)(b)) was issued summonses, but he was unsure if § 87(2)(b) was actually arrested.

***Officer Christopher McGee*** [enclosure 27a-b; 28a-b]

Officer Christopher McGee was interviewed at the CCRB on May 11, 2006. On March 5, 2006, Officer McGee worked a 10:00PM to 6:35AM tour, assigned to the Cabaret Unit, which covered the 10<sup>th</sup> Precinct. Officer McGee worked with Officer Riso; both officers were assigned to a marked RMP (#2712) and were wearing uniforms. When Officer McGee arrived at the scene, he was tasked with guarding § 87(2)(b) who was already handcuffed and sitting in a patrol car. Officer McGee remained there while a number of unidentified officers attended to another incident. Officer McGee did not witness what was happening. A couple of minutes later, he heard glass shattering and later learned that a female had kicked out the window of a patrol car. Officer McGee stated that he did not observe the female's initial arrest and did not know what happened with her. He believed that she was taken to the hospital for a psychiatric evaluation.

Police Documents

***Roll Call*** [enclosure 38a-c]

The 10<sup>th</sup> Precinct roll call indicated that Lieutenant Thomas Lauterborn was assigned as the Cabaret supervisor, Sergeant Michael Abruzzese was assigned as the patrol supervisor with Officer Robert Titza as his operator, Officers Michael Riso and Christopher McGee were assigned to the Cabaret unit and Officers Walter Butler and Vincent Candela were assigned as Sector C. All officers were working tour 1.

***Communications documents*** [enclosure 37a-i]

The sprint-print out and communications recording revealed that Sector C (Officers Butler and Candela) reported that they had one male under arrest and asked for another unit for transport at approximately 4:07am. Screaming and yelling (particularly female voices) can be heard in the background. One of the Cabaret (Officers McGee and Riso) units relayed that they would respond. A minute later, Sector C again radios and requests a number of units to respond. The background noise at this point was so loud that it nearly drowned out Sector C's call for assistance. Several units (mostly indistinct) stated that they would respond. Approximately 5 minutes later, Lieutenant Lauterborn requested ESU and EMS for an EDP to respond. Approximately 20 minutes later, Lieutenant Lauterborn stated that there were three individuals arrested, with one prisoner going to § 87(2)(b).

***Arrest Reports*** [enclosure 20a-b; 22a-b; 33a-b]

Arrest report # § 87(2)(b) revealed that Officer Candela arrested § 87(2)(b) at § 87(2)(b) in front of 301 10<sup>th</sup> Avenue. The narrative stated, “At time and place of occurrence, while being issued a summons, perp(etrator) did push police officer and perp(etrator) then resisted while being placed under arrest. Perp(etrator) did also use abusive/obscene language.” § 87(2)(b) was charged § 87(2)(b). The arrest report confirmed that the officers were required to use force against § 87(2)(b) in order to restrain and control him. § 87(2)(b), § 87(2)(g) [enclosure 21a-b]

Arrest report # § 87(2)(b) revealed that Officer Candela arrested § 87(2)(b) at § 87(2)(b) in front of 301 10<sup>th</sup> Avenue. § 87(2)(a) 160.50

§ 87(2)(g)

Arrest report #§ 87(2)(b) revealed that Officer Titza arrested § 87(2)(b) at § 87(2)(b) at the northeast corner of West 27<sup>th</sup> Street and 10<sup>th</sup> Avenue. The narrative stated, "At time/place of occurrence, above defendant did push and use obscene language while physically putting himself between officers performing an arrest and subject of arrest." § 87(2)(b) was charged § 87(2)(b). The report confirmed that force was used and no officers were injured. § 87(2)(b)

**Command Log** [enclosure 39a-e]

The 10<sup>th</sup> Precinct command log revealed entries for § 87(2)(b) and § 87(2)(b) at § 87(2)(b). Both entries stated that their mental/physical conditions were "apparently normal." There was an entry made at 8:30am for § 87(2)(b). The entry stated that § 87(2)(b) was initially taken to § 87(2)(b) from the scene. Her condition was listed as intoxicated and combative.

**ESU report** [enclosure 41a]

The ESU report indicated that they were called to West 27<sup>th</sup> Street and 10<sup>th</sup> Avenue at § 87(2)(b) on the request of Officer Candela. Details stated, "Crew responded to a request for an EDP. Upon arrival, EDP was cuffed, crew placed female EDP into and EDP bag. Removed to § 87(2)(b) EMT shield # § 87(2)(b)." The report was signed by Detective Richard Perez.

**Conviction History** [enclosure 42a-x; 43a-e; 44a-h]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

**CCRB Histories** [enclosure 4a; 5a; 6a; 7a; 8a]

This is § 87(2)(b) first CCRB complaint. This is § 87(2)(b) s first CCRB complaint.

Neither Officer Candela, a 5-year NYPD veteran, nor Officer Butler, also a 5-year NYPD veteran, have substantiated CCRB cases. Lieutenant Lauterborn is a 16-year veteran of the NYPD § 87(4-b) § 87(2)(g)

**Medical Records** [enclosure 16a; 17a-d]

§ 87(2)(b) s medical records were ordered from § 87(2)(b) however, § 87(2)(b) was unable to locate her medical file. The ambulance call report was obtained from the Fire Department. EMT shield # § 87(2)(b) completed the report, indicating that § 87(2)(b) was found in police custody in restraints. The report stated that she had an altercation with police prior to the EMS arrival and had kicked out the window of the patrol car. She had several visible abrasions. Her chief complaint was, "I am bleeding all over." The paramedic annotated that the causes of § 87(2)(b) s injuries were alcohol and fighting. The report indicated that § 87(2)(b) had injuries on her upper back and knees, which were bleeding. The paramedic also annotated that § 87(2)(b) was very abusive toward the ambulance crew, as she continued to curse and spit at them during her examination. [enclosure 17c]

**Conclusions and Recommendations**

**Undisputed facts**

It is not disputed that § 87(2)(b) double-parked his hired car on 10<sup>th</sup> Avenue, where Officers Candela and Butler observed it and stopped to write a summons. It is not disputed that § 87(2)(b) was arrested. It is not disputed that § 87(2)(b) interfered in § 87(2)(b) arrest. It is not disputed that § 87(2)(b) kicked out the patrol car window, which led to the decision to take her to § 87(2)(b) § 87(2)(b), § 87(2)(b)

### Disputed facts

§ 87(2)(b) claimed that he left his car on and running on 10<sup>th</sup> Avenue as he looked for § 87(2)(b) and her sister. Both Officers Candela and Butler deny that the car was turned on or that anyone was in the vicinity of the vehicle. § 87(2)(b) also claimed that he walked away from Officer Candela while the officer wrote the summons. However, both Officer Candela and Officer Butler stated that not only did § 87(2)(b) remain near them, he continuously stepped close to Officer Candela's face while yelling and waving his arms around. § 87(2)(b) disputed the officers' claim that she physically assaulted Officer Candela.

### Credibility Assessment

#### ***Civilian Credibility***

§ 87(2)(b), § 87(2)(g) . § 87(2)(b) filed the complaint within 12 days of the incident. § 87(2)(b), § 87(2)(g) . § 87(2)(b) . § 87(2)(b), § 87(2)(g) . He stated that as an employee with the Taxi and Limousine Commission for approximately five years, he routinely receives summonses for various traffic infractions, which is just part of the job. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b). She admitted that she was intoxicated (and under 21-years old), that she should not have screamed at the officer and that she should not have kicked the door, causing the window in the patrol car to shatter. § 87(2)(g)

#### ***Officer Credibility***

§ 87(2)(g)

### Allegations not pleaded

§ 87(2)(b), § 87(2)(g)

### Recommended dispositions

**Allegation A: Abuse of Authority: Officer Vincent Candela stopped and questioned § 87(2)(b)**

Both Officer Candela and Officer Butler stated that when they first observed § 87(2)(b) vehicle, the car was double-parked, but turned off. § 87(2)(b) admitted that he double-parked on the side of the road, along with numerous other vehicles, in order to identify his fare and alert them to his vehicle's location. § 87(2)(b), § 87(2)(g) Vehicle Traffic Law article 32, § 1202, which prohibits individuals from stopping, standing or parking a vehicle "on the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street." [enclosure 1a-b] However, he claimed that he kept the car running and the driver side door open as he was only going to be gone for a couple of seconds. He stated that he believed that as a 'for-hire' vehicle, he was authorized to momentarily double-park in order to either pick up or drop off passengers. § 87(2)(b), § 87(2)(g)

Vehicle Traffic Law article 33, § 1210, which states that "No

person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the vehicle, and effectively setting the brake thereon.” [enclosure 2a] § 87(2)(b), § 87(2)(g)

**Allegation B: Force: Officer Vincent Candela used physical force against § 87(2)(b)**

**Allegation C: Force: Officer Walter Butler used physical force against § 87(2)(b).**

§ 87(2)(b) denied that he touched the officers in any way prior to his arrest although he admitted that he tried to initially move his vehicle away from Officer Candela. Although § 87(2)(b) provided Officer Candela with his identification for the summons, both Officer Candela and Officer Butler stated that § 87(2)(b) was waving his arms around in such a way that it led them to worry that he was going to hit one of them. § 87(2)(b), § 87(2)(g)

**Allegation D: Force: Officer Vincent Candela used physical force against § 87(2)(b)**

**Allegation E: Force: Officer Walter Butler used physical force against § 87(2)(b)**

**Allegation F: Force: Lieutenant Theodore Lauterborn used physical force against § 87(2)(b)**

**Allegation G: Force: Officers used physical force against § 87(2)(b)**

By § 87(2)(b)'s own statement, she attempted to intervene in § 87(2)(b)'s lawful arrest, admitting that she physically touched one of the officers as § 87(2)(b) was being handcuffed. However, the officers claimed that § 87(2)(b) either intentionally or unintentionally hit Officer Candela in the face. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

She admitted that she attempted to struggle out of Officer Candela's grasp when he tried to handcuff her. As there were countless number of individuals attempting to intervene in the arrest, Officer Candela and Officer Butler were tasked with controlling the crowd, keeping § 87(2)(b) under control and obtaining control of § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation H: Force: Officers used physical force against § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: